

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN – SOUTHERN DIVISION

THE UNITED STATES OF AMERICA,

Plaintiff,

Case No 1:20-CR-183-RJJ

HON. ROBERT J. JONKER

V

ADAM FOX, et al.

Defendants.

DEFENDANT ADAM FOX'S MOTION
FOR SPECIAL JURY INSTRUCTION
BASED ON *BRANDENBURG V OHIO*

Now Comes Defendant Adam Fox, by and through Counsel, Christopher M. Gibbons of the Law Offices of Gibbons & Boer, and requests this Honorable Court to grant the Defendant a special jury instruction based on *Brandenburg v Ohio*, 395 U.S. 444 (1969). In support thereof the Defendant states the following:

1. Adam Fox is charged with conspiracy to kidnap the sitting Governor of Michigan, Gretchen Whitmer, in violation of 18 United States Code 1201(a). In addition, Adam Fox, is charged with conspiracy to obtain a weapon of mass destruction in violation of 18 United States Code 2332(a)(2)(A) and (C) in furtherance of kidnapping.
2. The evidence against Adam Fox consists of recordings of meetings, recordings of conversations during car travel, recordings of telephone conversations, social media posts, direct messages (both encrypted and un-encrypted), surveillance videos, and photographs.

3. Much of what is recorded is social and political speech protected by the First Amendment, as a result the Defendant is entitled to a jury instruction on the imminence standard as set forth in *Brandenburg v Ohio* 395 U.S. 444 (1969).

4. Adam Fox makes this motion well ahead of Trial in this matter, presently scheduled to commence on October 12, 2021, to place the Government and the Court on notice that such a request would be advanced as it directly affects the standards for sufficiency of the evidence in the case against Adam Fox.

Dated July 11, 2021

Respectfully Submitted,

Christopher M. Gibbons
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